



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

JUSTIN A. WILLIAMS, §
Petitioner, §
§
vs. § CIVIL ACTION NO. 2:07-0350-HFF-RSC
§
PHILLIP A. FOOT, Director of Beaufort §
County Detention Center, §
Respondent. §

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE

This case was filed as a 28 U.S.C. § 2241 action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the action be dismissed without prejudice and without requiring Respondent to file a return because Petitioner has failed to exhaust his state court remedies. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on February 27, 2007, and Petitioner's objections were entered by the Deputy Clerk of Court on March 13, 2007. The Court has reviewed the objections, but finds them to be without merit. Simply stated, Petitioner must first exhaust his state court remedies before filing an action in this Court.

Accordingly, after a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Petitioner's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that the action be **DISMISSED** without prejudice and without requiring Respondent to file a return because Petitioner has failed to exhaust his state court remedies.

IT IS SO ORDERED.

Signed this 15th day of March, 2007, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.